

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

M.L. LOATSCH, INC.

Plaintiff,

v.

Case No. 06-14902  
Honorable Patrick J. Duggan

WIZZARD, INC. and  
PATRICK MCNAMARA,

Defendants.

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**DEFAULT JUDGMENT**

Plaintiff filed this action on October 31, 2006, seeking sales commissions due from Defendants. Although served with a summons and a copy of the complaint on October 10, 2007, Defendants have failed to answer or otherwise respond to Plaintiff's complaint. Upon Plaintiff's request, the Clerk of the Court entered a default against Defendants on November 1, 2007. Presently before the Court is Plaintiff's motion for a default judgment, filed December 20, 2007.

Plaintiff seeks a default judgment in the amount of \$225,800.79. This amount represents the following: unpaid commissions due in the amount of \$94,894.42; a statutory penalty in the amount of \$100,000; costs and attorney fees totaling \$3,252.80; pre-complaint interest (at a rate of 5% over two years) totaling \$19,489.44; and post-complaint/pre-judgment interest (at a rate of 4.189%, calculated at six-month intervals) totaling \$8,164.13. Aside from the total amount of pre-complaint interest sought, the Court concludes that Plaintiff is entitled to the above amounts. *See* MICH. COMP. LAWS

ANN. § 600.2961 (Michigan Sales Representative Act); *Kenneth Henes Special Projects Procurement v. Cont'l Biomass Indus., Inc.*, 86 F. Supp. 2d 721, 737 (E.D. Mich. 2000), *aff'd* 68 Fed. App's 630 (6th Cir. 2003) (citing *Bailey v. Chattem, Inc.*, 838 F.2d 149 (6th Cir. 1988)).

Plaintiff calculates the amount of prejudgment interest due on the total of commissions due and penalty interest. The Court, however, does not believe that pre-complaint interest should be calculated for the statutory penalty as Plaintiff was not entitled to that amount before the complaint was filed. Pre-complaint interest on the commissions due therefore totals \$9,489.44.

Accordingly,

**IT IS ORDERED, ADJUDGED, AND DECREED**, that judgment is entered in favor of Plaintiff and against Defendants in the amount of \$215,800.79, with interest thereon as provided by law.

Date: February 8, 2008

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s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE